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| FCC 603 | FCC Wireless Telecommunications Bureau Application for Assignments of Authorization and Transfers of Control NOT FILE COPY ORIGINAL | 02-41 Approved by OMB 3060 - 0800 See instructions for public burden estimate Submitted 02/01/2002 at 03:52PM File Number: 0000756618 |
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| | |
|---|--------------|
| 1) Application Purpose: Transfer of Control | |
| 2a) If this request is for an Amendment or Withdrawal, enter the File Number of the pending application currently on file with the FCC. | File Number: |
| 2b) File numbers of related pending applications currently on file with the FCC: | |

Type of Transaction

| |
|--|
| 3a) Is this a <i>pro forma</i> assignment of authorization or transfer of control? No |
| 3b) If the answer to Item 3a is 'Yes', is this a notification of a <i>pro forma</i> transaction being filed under the Commission's forbearance procedures for telecommunications licenses? |
| 4) For assignment of authorization only, is this a partition and/or disaggregation? |
| 5a) Does this filing request a waiver of the Commission rules? If 'Yes', attach an exhibit providing the rule numbers and explaining circumstances. No |
| 5b) If a feeable waiver request is attached, multiply the number of stations (call signs) times the number of rule sections and enter the result. |
| 6) Are attachments being filed with this application? Yes |
| 7a) Does the transaction that is the subject of this application also involve transfer or assignment of other wireless licenses held by the assignor/transferor or affiliates of the assignor/transferor(e.g., parents, subsidiaries, or commonly controlled entities) that are not included on this form and for which Commission approval is required? No |
| 7b) Does the transaction that is the subject of this application also involve transfer or assignment of non-wireless licenses that are not included on this form and for which Commission approval is required? No |

Transaction Information

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|---|
| 8) How will assignment of authorization or transfer of control be accomplished? Sale or other assignment or transfer of stock If required by applicable rule, attach as an exhibit a statement on how control is to be assigned or transferred, along with copies of any pertinent contracts, agreements, instruments, certified copies of Court Orders, etc. |
| 9) The assignment of authorization or transfer of control of license is: Voluntary |

Licensee/Assignor Information

| | | |
|--|-----------------------|---|
| 10a) Taxpayer Identification Number: 223718683 | 10b) SGIN: 000 | 10c) FCC Registration Number (FRN): 0003998234 |
| 11) First Name (if individual): | MI: | Last Name: |
| 12) Entity Name (if not an individual): Neoworld License Holdings, Inc. | | |
| 13) Attention To: | | |
| 14) P.O. Box: | And / Or | 15) Street Address: 1515 Broad Street |
| 16) City: Bloomfield | 17) State: NJ | 18) Zip: 07003 |
| 19) Telephone Number: (302)651-8847 | 20) FAX: | |
| 21) E-Mail Address: | | |

22) Race, Ethnicity, Gender of Assignor/Licensee (Optional)

| | | | | | |
|-------------------|-----------------------------------|-------------------------|----------------------------|--|--------|
| Race: | American Indian or Alaska Native: | Asian: | Black or African-American: | Native Hawaiian or Other Pacific Islander: | White: |
| Ethnicity: | Hispanic or Latino: | Not Hispanic or Latino: | | | |
| Gender: | Female: | Male: | | | |

Transferor Information (for transfers of control only)

| | | |
|--|-----------------------|---|
| 23a) Taxpayer Identification Number: 223719763 | 23b) SGIN: 000 | 23c) FCC Registration Number (FRN): 0006291751 |
| 24) First Name (if individual): | MI: | Last Name: Suffix: |
| 25) Entity Name (if not an individual): Neoworld Holdings, LLC. | | |
| 26) P.O. Box: | And / Or | 27) Street Address: 1515 Broad Street |
| 28) City: Bloomfield | 29) State: NJ | 30) Zip: 07003 |
| 31) Telephone Number: (302)651-8847 | 32) FAX: | |
| 33) E-Mail Address: | | |

Name of Transferor Contact Representative (if other than Transferor) (for transfers of control only)

| | | | |
|-----------------------|------------|---------------------|---------|
| 34) First Name: | MI: | Last Name: | Suffix: |
| 35) Company Name: | | | |
| 36) P.O. Box: | And / Or | 37) Street Address: | |
| 38) City: | 39) State: | 40) Zip: | |
| 41) Telephone Number: | 42) FAX: | | |
| 43) E-Mail Address: | | | |

Assignee/Transferee Information

| | | |
|--|-------------------------------|---|
| 44) The Assignee is a(n): Corporation | | |
| 45a) Taxpayer Identification Number: 223034477 | 45b) SGIN: 000 | 45c) FCC Registration Number (FRN): 0003294972 |
| 46) First Name (if individual): | MI: | Last Name: Suffix: |
| 47) Entity Name (if other than individual): FCI 900, INC. | | |
| 48) Name of Real Party in Interest: NEXTEL COMMUNICATIONS, INC. | 49) TIN: 363939651 | |
| 50) Attention To: | | |
| 51) P.O. Box: | And / Or | 52) Street Address: 2001 EDMUND HALLEY DRIVE |
| 53) City: RESTON | 54) State: VA | 55) Zip: 20191 |
| 56) Telephone Number: (703)433-4000 | 57) FAX: (703)433-4035 | |
| 58) E-Mail Address: | | |

Name of Assignee/Transferee Contact Representative (if other than Assignee/Transferee)

| | | | |
|-----------------------|------------|---------------------|---------|
| 59) First Name: | MI: | Last Name: | Suffix: |
| 60) Company Name: | | | |
| 61) P.O. Box: | And / Or | 62) Street Address: | |
| 63) City: | 64) State: | 65) Zip: | |
| 66) Telephone Number: | 67) FAX: | | |
| 68) E-Mail Address: | | | |

Alien Ownership Questions

| | |
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| 69) Is the Assignee or Transferee a foreign government or the representative of any foreign government? | No |
| 70) Is the Assignee or Transferee an alien or the representative of an alien? | No |
| 71) Is the Assignee or Transferee a corporation organized under the laws of any foreign government? | No |
| 72) Is the Assignee or Transferee a corporation of which more than one-fifth of the capital stock is owned of record or voted by aliens or their representatives or by a foreign government or representative thereof or by any corporation organized under the laws of a foreign country? | No |
| 73) Is the Assignee or Transferee directly or indirectly controlled by any other corporation of which more than one-fourth of the capital stock is owned of record or voted by aliens, their representatives, or by a foreign government or representative thereof, or by any corporation organized under the laws of a foreign country? If 'Yes', attach exhibit explaining nature and extent of alien or foreign ownership or control. | No |

Basic Qualification Questions

| | |
|---|----|
| 74) Has the Assignee or Transferee or any party to this application had any FCC station authorization, license or construction permit revoked or had any application for an initial, modification or renewal of FCC station authorization, license, construction permit denied by the Commission? If 'Yes', attach exhibit explaining circumstances. | No |
| 75) Has the Assignee or Transferee or any party to this application, or any party directly or indirectly controlling the Assignee or Transferee, or any party to this application ever been convicted of a felony by any state or federal court? If 'Yes', attach exhibit explaining circumstances. | No |
| 76) Has any court finally adjudged the Assignee or Transferee, or any party directly or indirectly controlling the Assignee or Transferee guilty of unlawfully monopolizing or attempting unlawfully to monopolize radio communication, directly or indirectly, through control of manufacture or sale of radio apparatus, exclusive traffic arrangement, or any other means or unfair methods of competition? If 'Yes', attach exhibit explaining circumstances. | No |
| 77) Is the Assignee or Transferee, or any party directly or indirectly controlling the Assignee or Transferee currently a party in any pending matter referred to in the preceding two items? If 'Yes', attach exhibit explaining circumstances. | No |

78) Race, Ethnicity, Gender of Assignee/Transferee (Optional)

| | | | | | |
|-------------------|-----------------------------------|-------------------------|----------------------------|--|--------|
| Race: | American Indian or Alaska Native: | Asian: | Black or African-American: | Native Hawaiian or Other Pacific Islander: | White: |
| Ethnicity: | Hispanic or Latino: | Not Hispanic or Latino: | | | |
| Gender: | Female: | Male: | | | |

Assignor/Transferor Certification Statements

| | | | |
|--|-----|----------------------|---------|
| 1) The Assignor or Transferor certifies either (1) that the authorization will not be assigned or that control of the license will not be transferred until the consent of the Federal Communications Commission has been given, or (2) that prior Commission consent is not required because the transaction is subject to streamlined notification procedures for <i>pro forma</i> assignments and transfers by telecommunications carriers. See <i>Memorandum Opinion and Order</i> , 13 FCC Rcd. 6293(1998). | | | |
| 2) The Assignor or Transferor certifies that all statements made in this application and in the exhibits, attachments, or in documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith. | | | |
| 79) Typed or Printed Name of Party Authorized to Sign | | | |
| First Name: JOHN | MI: | Last Name: PESCATORE | Suffix: |
| 80) Title: CHIEF OPERATING OFFICER | | | |
| Signature: JOHN PESCATORE | | 81) Date: 02/01/02 | |

Assignee/Transferee Certification Statements

- 1) The Assignee or Transferee certifies either (1) that the authorization will not be assigned or that control of the license will not be transferred until the consent of the Federal Communications Commission has been given, or (2) that prior Commission consent is not required because the transaction is subject to streamlined notification procedures for *pro forma* assignments and transfers by telecommunications carriers See *Memorandum Opinion and Order*, 13 FCC Rcd. 6293 (1998).
- 2) The Assignee or Transferee waives any claim to the use of any particular frequency or of the electromagnetic spectrum as against the regulatory power of the United States because of the previous use of the same, whether by license or otherwise, and requests an authorization in accordance with this application.
- 3) The Assignee or Transferee certifies that grant of this application would not cause the Assignee or Transferee to be in violation of any pertinent cross-ownership, attribution, or spectrum cap rule.
*If the applicant has sought a waiver of any such rule in connection with this application, it may make this certification subject to the outcome of the waiver request.
- 4) The Assignee or Transferee agrees to assume all obligations and abide by all conditions imposed on the Assignor or Transferor under the subject authorization(s), unless the Federal Communications Commission pursuant to a request made herein otherwise allows, except for liability for any act done by, or any right accrued by, or any suit or proceeding had or commenced against the Assignor or Transferor prior to this assignment.
- 5) The Assignee or Transferee certifies that all statements made in this application and in the exhibits, attachments, or in documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith.
- 6) The Assignee or Transferee certifies that neither it nor any other party to the application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1998, 21 U.S.C § 862, because of a conviction for possession or distribution of a controlled substance. See Section 1.2002(b) of the rules, 47 CFR § 1.2002(b), for the definition of "party to the application" as used in this certification.
- 7) The applicant certifies that it either (1) has an updated Form 602 on file with the Commission, (2) is filing an updated Form 602 simultaneously with this application, or (3) is not required to file Form 602 under the Commission's Rules.

82) Typed or Printed Name of Party Authorized to Sign

| | | | |
|--|--------------|---------------------------|---------|
| First Name: ROBIN | MI: J | Last Name: COHEN | Suffix: |
| 83) Title: MANAGER, REGULATORY | | | |
| Signature: ROBIN J COHEN | | 84) Date: 02/01/02 | |
| WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. Code, Title 18, Section 1001) AND/OR REVOCATION OF ANY STATION LICENSE OR CONSTRUCTION PERMIT (U.S. Code, Title 47, Section 312(a)(1)), AND/OR FORFEITURE (U.S. Code, Title 47, Section 503). | | | |

Authorizations To Be Assigned or Transferred

| 85) Call Sign | 86) Radio Service | 87) Location Number | 88) Path Number (Microwave only) | 89) Lower or Center Frequency (MHz) | 90) Upper Frequency (MHz) | 91) Constructed Yes / No |
|---------------|-------------------|---------------------|----------------------------------|-------------------------------------|---------------------------|--------------------------|
| KNNX224 | AL | | | | | Yes |
| KNNX725 | AL | | | | | Yes |
| KNNX732 | AL | | | | | Yes |
| KNNX342 | AL | | | | | Yes |
| KNNX233 | AL | | | | | Yes |
| KNNX234 | AL | | | | | Yes |
| KNNX235 | AL | | | | | Yes |
| KNNX236 | AL | | | | | Yes |
| KNNX237 | AL | | | | | Yes |
| KNNX244 | AL | | | | | Yes |
| KNNX245 | AL | | | | | Yes |
| KNNX254 | AL | | | | | Yes |
| KNNX264 | AL | | | | | Yes |
| KNNX265 | AL | | | | | Yes |
| KNNX266 | AL | | | | | Yes |
| KNNX286 | AL | | | | | Yes |
| KNNX287 | AL | | | | | Yes |
| KNNX288 | AL | | | | | Yes |
| KNNX290 | AL | | | | | Yes |
| KNNX291 | AL | | | | | Yes |
| KNNX326 | AL | | | | | Yes |

[illegible]

| | | |
|---------|----|-----|
| KNNX259 | AL | Yes |
| KNNX279 | AL | Yes |
| KNNX280 | AL | Yes |
| KNNY365 | AL | Yes |
| KNNY366 | AL | Yes |
| KNNX753 | AL | Yes |
| KNNX267 | AL | Yes |
| KNNX268 | AL | Yes |
| KNNX578 | AL | Yes |
| KNNX904 | AL | Yes |
| WNIX520 | AL | Yes |
| WNIX521 | AL | Yes |
| KNNX225 | AL | Yes |
| KNNX226 | AL | Yes |
| KNNX227 | AL | Yes |

**FCC Form 603
Schedule A**

**Schedule for Assignments of Authorization
and Transfers of Control in Auctioned Services**

Approved by OMB
3060 - 0800
See instructions for public
burden estimate

Assignments of Authorization

1) Assignee Eligibility for Installment Payments (for assignments of authorization only)

Is the Assignee claiming the same category or a smaller category of eligibility for installment payments as the Assignor (as determined by the applicable rules governing the licenses issued to the Assignor)?

If 'Yes', is the Assignee applying for installment payments?

2) Gross Revenues and Total Assets Information (if required) (for assignments of authorization only)

Refer to applicable auction rules for method to determine required gross revenues and total assets information

| | | | |
|------------------------------------|-----------------------|-----------------------|---------------|
| Year 1 Gross Revenues (current) | Year 2 Gross Revenues | Year 3 Gross Revenues | Total Assets: |
|------------------------------------|-----------------------|-----------------------|---------------|

3) Certification Statements

For Assignees Claiming Eligibility as an Entrepreneur Under the General Rule

Assignee certifies that they are eligible to obtain the licenses for which they apply.

For Assignees Claiming Eligibility as a Publicly Traded Corporation

Assignee certifies that they are eligible to obtain the licenses for which they apply and that they comply with the definition of a Publicly Traded Corporation, as set out in the applicable FCC rules.

For Assignees Claiming Eligibility Using a Control Group Structure

Assignee certifies that they are eligible to obtain the licenses for which they apply.

Assignee certifies that the applicant's sole control group member is a pre-existing entity, if applicable.

For Assignees Claiming Eligibility as a Very Small Business, Very Small Business Consortium, Small Business, or as a Small Business Consortium

Assignee certifies that they are eligible to obtain the licenses for which they apply.

Assignee certifies that the applicant's sole control group member is a pre-existing entity, if applicable.

For Assignees Claiming Eligibility as a Rural Telephone Company

Assignee certifies that they meet the definition of a Rural Telephone Company as set out in the applicable FCC rules, and must disclose all parties to agreement(s) to partition licenses won in this auction. See applicable FCC rules.

Transfers of Control

4) Licensee Eligibility (for transfers of control only)

As a result of transfer of control, must the licensee now claim a larger or higher category of eligibility than was originally declared?

No

If 'Yes', the new category of eligibility of the licensee is:

Certification Statement for Transferees

Transferee certifies that the answers provided in Item 4 are true and correct.

Attachment List

| Attachment Type | Date | Description | Contents |
|-----------------|----------|---|---|
| Confidentiality | 02/01/02 | Attachment 2 - Exhibit 4 - 602 Form | Not Available |
| Ownership | 02/01/02 | Attachment 2 - Exhibit 1 - 220 MHz Site Licensees | 0177246622241696713937293.pdf |
| Other | 02/01/02 | Exhibit 1 - Dismissal and Revocations Statement | 0177246392241696713937293.pdf |
| Other | 02/01/02 | Attachment 2 - Public Interest Statement | 0177246402241696713937293.pdf |
| Other | 02/01/02 | Attachment 2 - Exhibit 1 - 800 MHz Site Licenses | 0177246452241696713937293.pdf |
| Other | 02/01/02 | Attachment 2 - Exhibit 1 - 800 MHz EA Licensees | 0177246462241696713937293.pdf |
| Other | 02/01/02 | Attachment 2 - Exhibit 1 - 900 MHz Site Licensees | 0177246482241696713937293.pdf |
| Other | 02/01/02 | Attachment 2 - Exhibit 1 - 900 MHz MTA Licensees | 0177246492241696713937293.pdf |
| Other | 02/01/02 | Attachment 2 - Exhibit 1 - Industrial/Business Pool | 0177246502241696713937293.pdf |
| Other | 02/01/02 | Attachment 2 - Exhibit 1 - 220 MHz EA Licensees | 0177246512241696713937293.pdf |
| Other | 02/01/02 | Attachment 2 - Exhibit 1 - AMTS Licensees | 0177246552241696713937293.pdf |
| Other | 02/01/02 | Attachment 2 - Exhibit 1 - Cellular CMA Licensees | 0177246562241696713937293.pdf |
| Other | 02/01/02 | Attachment 2 - Exhibit 1 - PCS BTA Licensees | 0177246572241696713937293.pdf |
| Other | 02/01/02 | Attachment 2 - Exhibit 1 - PCS MTA Licensees | 0177246582241696713937293.pdf |
| | | Attachment 2 - Exhibit 2 - | |

| | | | |
|-------|----------|---|-------------------------------|
| Other | 02/01/02 | Attachment 2 - Exhibit 2 - Market Channel Counts | 0177246592241696713937293.pdf |
| Other | 02/01/02 | Attachment 2 - Exhibit 3 - Mobile to Mobile Calling Plans | 0177246602241696713937293.pdf |
| Other | 02/01/02 | Attachment 2 - Exhibit 3 - Rosston Report | 0177246612241696713937293.pdf |
| Other | 02/01/02 | Attachment 2 - Exhibit 1 - 220 MHz EAG Licensees | Not Available |

Exhibit 1

DISMISSALS AND REVOCATIONS

In response to FCC Form 603, Item 74, Transferor and/or Transferee has had no licenses revoked by the FCC. Transferor and/or Transferee hereby provides the circumstances of various insignificant dismissals or denials of applications filed by the applicant and/or its affiliates.

Transferor and/or Transferee and/or its affiliates hold many Federal Communications Commission ("Commission") licenses primarily for Special Mobile Radio ("SMR") systems, many authorizing several hundred channels in a station's area of operation. From time to time, an application associated with one of these facilities may be dismissed by the FCC, in whole or in part, typically for technical reasons such as a mistake in calculating the SMR interference protection standards set forth in Sections 90.621(b) of the Commission's Rules. To the best of Transferor/Transferee's knowledge, however, none of the above-referenced dismissals or revocations was based on a character issue as defined by the FCC's Rules and policies. Therefore, the FCC should find the Transferor/Transferee has the requisite basic qualifications to be awarded the grant of the instant application.

Attachment 2
PUBLIC INTEREST STATEMENT

I. INTRODUCTION

This application proposes the transfer of control of eighty-six 900 MHz Specialized Mobile Radio (“SMR”) licenses held by NeoWorld License Holdings, Inc., an indirect, wholly owned subsidiary of NeoWorld Holdings, LLC (“NeoWorld”) to FCI 900, Inc., a wholly owned subsidiary of Nextel Communications, Inc. (“Nextel”).¹ In support of the application, Nextel respectfully submits this public interest statement showing that the proposed transfers are in the public interest and will not result in any competitive harm.

Upon approval of the transfer of control, Nextel plans to deploy the NeoWorld 900 MHz frequencies in its digital iDEN network, and thereby increase its capacity, flexibility and, ultimately, competitiveness in the Commercial Mobile Radio Services (“CMRS”) marketplace leading to even greater overall competition and consumer benefits. In evaluating these competitive issues, the Wireless Telecommunications Bureau (“Bureau”) should rely on the Federal Communications Commission’s (“Commission”) findings in the Sixth Report on Competition and consider the competitive impact only in the CMRS marketplace, wherein Nextel competes vigorously with other providers of wireless telecommunications services.²

¹ Additionally, pending application File No. 0000592165 requests the assignment of 900 MHz SMR Stations KNNY251 and KNNY254 to NeoWorld. If that application is granted, Stations KNNY251 and KNNY254 also would be proposed to be transferred to Nextel.

² In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, *Sixth Report*, FCC 01-192, released July 17, 2001 (hereinafter “Sixth Report on Competition”) at p. 4 (“...there has been an increasing convergence of services provided by dispatch and other mobile telephony providers [and] public information regarding dispatch services, as distinct from mobile telephony services, has become more limited.”)

However, should the Bureau choose to analyze the transfer based on a bifurcated marketplace -- mobile telephone and dispatch -- this public interest statement demonstrates that the transaction will benefit the public without any resulting competitive harm.

Given the significant degree of competition for all wireless communications services, whether mobile voice, dispatch or data, there is no opportunity for Nextel to act anticompetitively and harm consumers. Integration of NeoWorld's 900 MHz licenses into Nextel's existing iDEN network will increase Nextel's efforts to transform the pricing and billing of interconnected mobile telephone services,³ provide advanced dispatch services in the CMRS market, foster the increasing competitiveness of the CMRS marketplace and assist in "bringing the benefits of mobility to an ever-increasing segment of the country."⁴ As the Commission has recognized, "the operator most responsible for using digital technology to make SMR a mobile telephone competitor has been Nextel[.]"⁵ Adding NeoWorld's spectrum to Nextel's existing digital SMR system will enhance Nextel's ability to compete in the CMRS marketplace.

As the Bureau is aware, Nextel has submitted a White Paper outlining a process to realign the 800 MHz Land Mobile Radio band to resolve CMRS-Public Safety interference and to

³ See, e.g., State of the SMR Industry: Nextel and Dispatch Communications, The Strategis Group, September 2000 (hereinafter "September 2000 Strategis Report") at p. 54 ("The Strategis Group believes that Nextel's subscriber growth rates have evoked a profound response from AT&T Wireless and other cellular operators.")

⁴ Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, *Fourth Report*, 14 FCC RCD 10145, 10150 at fn. 18 (1999) ("Fourth Report on Competition") at p. 5.

⁵ Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, *Fifth Report*, 15 FCC Rcd 17660 ("Fifth Report on Competition") at p. 30.

provide new, clear, contiguous spectrum to Public Safety in the relatively near term.⁶ As part of its proposed realignment of the 800 MHz band, Nextel will contribute approximately 4 MHz of 900 MHz spectrum holdings to provide an alternative location for incumbent 800 MHz Business and Industrial/Land Transportation (“B/ILT”) licensees and traditional SMR licensees that choose to relocate out of the 800 MHz band. Therefore, should the Commission realign the 800 MHz band as proposed in the White Paper, Nextel will contribute the NeoWorld 900 MHz channels, as well as its other 900 MHz spectrum, to facilitate the realignment. Granting the transfer of NeoWorld’s 900 MHz licenses to Nextel will increase the availability of alternative spectrum options for these incumbent 800 MHz licensees, thereby facilitating rapid realignment of the 800 MHz Land Mobile Radio band.

Whether NeoWorld’s 900 MHz channels ultimately are contributed to the Commission to facilitate the realignment of the 800 MHz band to mitigate CMRS-public safety interference, or are deployed throughout Nextel’s nationwide digital network, the public interest is served by the approval of this transaction.

II. BACKGROUND

NeoWorld. NeoWorld was formed for the purpose of providing advanced dispatch two-way radio communication services utilizing spectrum efficient technology. The company was founded in the fall of 1999 and by March 2000 was capitalized with commitments for approximately \$150 million in equity, primarily representing investments by venture capital

⁶ See Letter to Thomas J. Sugrue from Robert S. Foosaner and Lawrence R. Krevor, dated November 21, 2001, and the attached White Paper entitled “Promoting Public Safety Communications: Realigning the 800 MHz Land Mobile Radio Band to Rectify Commercial Mobile Radio –Public Safety Interference and Allocation Additional Spectrum to Meet Critical Public Safety Needs” (hereinafter “Public Safety White Paper”).

firms. The control of NeoWorld resides in its Board of Directors, the majority of whom are representatives of venture capital firms.

The first essential element in NeoWorld's business plan was to secure sufficient spectrum. NeoWorld pursued the acquisition of some of the spectrum then held by the trustees in the Geotek Communications, Inc. ("Geotek") bankruptcy proceeding. It took approximately nine months of negotiations with the successor Geotek Creditors in Possession to come to an agreement for the purchase of the Geotek licenses. This acquisition yielded channels in many key markets nationally.

The anticipated scope of NeoWorld's service offering required the company to expand its geographic footprint and depth of coverage by entering into agreements to acquire or manage additional 900 MHz licenses, in some cases even prior to closing on the Geotek acquisition. By March of 2001, NeoWorld's spectrum expansion activities resulted in contracts for the purchase of 90 channels and agreements to manage an additional 70 channels.

NeoWorld's plan was to deploy a highly efficient, digital, national network. Accordingly, in late 1999, prior to completing its acquisition of any FCC licenses, the company began a major effort to identify a suitable technology for deployment. Upon selecting Motorola's iDEN technology in mid-2000, NeoWorld hired additional engineers and devoted substantial resources toward negotiating equipment purchase agreements with Motorola and proceeding with the design and implementation of its system. The company entered into an Equipment Purchase Agreement with Motorola on September 22, 2000 pursuant to which Motorola agreed to develop the equipment needed to deploy NeoWorld's network and NeoWorld agreed to fund the development costs of subscriber units. Motorola committed to deliver the initial infrastructure by February 2001 and the initial subscriber units six months later. Also in late 1999, NeoWorld

began a process of further clarifying the features and characteristics of its proposed system that would satisfy the needs of its target customers. Management began the considerable effort of developing a distribution channel that would consist of a nationwide network of independent two-way radio dealers and engaging those dealers in discussions about desired customer features.

Because the necessary debt financing was expected to be readily available, the company aggressively hired personnel and made substantial commitments to vendors in an effort to deploy its network in the shortest possible timeframe. Key engineering and distribution personnel were hired as early as the beginning of 2000. NeoWorld had seventeen (17) full-time employees by December 2000, and was actively recruiting to fill additional positions. By mid-2000, and in conjunction with its selection of the iDEN technology as noted above, the company began focusing on business operations activities that needed to be accomplished in order to implement its plan. After a several month recruitment period, a Chief Operations Officer was hired to focus on the development of business and customer operations activities that would need to be in place by mid-2001 when NeoWorld expected to initiate system deployment. Planning for customer support, billing, fulfillment, inventory and information systems deployment began in mid-2000 and continued into 2001.

As noted above, beginning in the latter part of 1999, NeoWorld undertook the task of pursuing qualified venture capital organizations to raise the \$150 million in equity funding needed to implement the business plan. That round of financing was successful and closed in March 2000. The plan called for additional financing in the form of debt to fund the remaining planned expenditures. The debt markets in late 1999 and early 2000 were quite robust and NeoWorld did not anticipate any difficulties in raising the needed money. However, as the FCC is aware, the capital markets deteriorated substantially after mid-year 2000 and effectively were

closed to start-up companies in telecommunications and other technology ventures.

Unfortunately, NeoWorld had to delay its efforts to obtain debt financing until after FCC approval of the assignment of the Geotek licenses to the company. By the time the FCC granted its consent to the transfer in August 2000, the capital markets already were beginning to close, although experts still had not predicted the disastrous economic climate that would develop over the following months. It was only after NeoWorld had executed the Equipment Purchase Agreements with Motorola and after it had undertaken the other expenditures associated with network buildout as described above, that the full extent of the recession in which the country still is mired became apparent.

This rapid, unanticipated adverse change in the capital markets forced NeoWorld to abandon its plans and explore alternatives. With the capital markets effectively closed to NeoWorld, and given the alternatives reasonably available to it, the company's Board determined it was in the best interests of all shareholders to enter into an Option Agreement with Nextel that would provide sufficient cash to meet immediate obligations and give the company the ability to negotiate out of other commitments, including its Equipment Purchase Agreement with Motorola.

Upon executing the Option Agreement with Nextel in March, 2001, NeoWorld proceeded to reduce its cash needs and reached settlement agreements with key vendors, including Motorola. Those settlements cost the company approximately \$8.9 million, in addition to costs incurred previously. NeoWorld prepared the company either for a sale if the option was exercised or, if the option expired, for finding another buyer or repositioning the company in an asset preservation mode until the capital markets were more favorable. NeoWorld kept its senior management team in place during the option period to assure it would be ready, if necessary, to

implement one of the other alternatives identified above. Nextel exercised its option to purchase NeoWorld seven months after execution of the Option Agreement.

Nextel. Nextel currently provides CMRS service in some 400 cities in the U.S. and serves over eight million subscribers,⁷ as one of at least six CMRS providers with a national footprint.⁸ Nextel has invested more than \$7 billion dollars to establish a national digital network to provide a full range of wireless communications services in competition with other CMRS providers. Nextel's digital CMRS service integrates in a single mobile handset a digital dispatch service (known as Nextel Direct Connect^(sm)) with interconnected mobile telephone service, Internet access, short messaging and mobile data service.⁹ Even standing alone, Nextel's Direct Connect service offers more than simply trunked dispatch. According to the Commission, Direct Connect "to some degree [...] is a substitute for mobile voice features such as speed dialing and conference calling."¹⁰ Thus, by offering this integrated package of services, Nextel "straddle[s] the mobile telephony and dispatch sectors,"¹¹ has become a significant competitor to

⁷ See Press Release "Nextel Reports Third Quarter 2001 Results," released October 24, 2001.

⁸ Fifth Report on Competition at pp. 9-10; *see also* Sixth Report on Competition at p. 13.

⁹ Nextel's Direct Connect is a significant advancement over traditional analog dispatch services because it expands the typical dispatch service coverage area, uses the spectrum more efficiently, provides extra security through the use of digital technology, and offers the user a number of options and features, including mobile telephone, paging, wireless Internet and voice mail.

¹⁰ Fifth Report on Competition at p. 70.

¹¹ Sixth Report on Competition at p. 4.

the established CMRS carriers throughout the Nation and continues to compete successfully in the provision of CMRS services.¹²

The attached Exhibit 1 provides a list of the primary cities in the geographic markets within which NeoWorld currently holds 900 MHz SMR licenses, and a listing of all cellular, PCS, 800 and 900 MHz, 220 MHz and AMTS licensees in those markets, as well as all B/ILT licensees below 800 MHz.¹³ All of the licensees listed in Exhibit 1 are capable of providing interconnected mobile telephone service and/or dispatch services to the public. Each of these licensees, therefore, provides actual or potential competition to Nextel and NeoWorld in those geographic areas. Exhibit 2 provides a listing of the relevant markets and the respective channel counts of Nextel and NeoWorld in each geographic area.

III. DISCUSSION

Section 310(d) of the Communications Act requires the Commission to determine whether the proposed transfer of NeoWorld's licenses to Nextel will serve the public interest, convenience and necessity.¹⁴ As explained in the Bureau's Order approving Nextel's acquisition of Motorola's 900 MHz licenses, this public interest determination includes an assessment of the transaction's impact on competition.¹⁵ In this case, transfer of NeoWorld's licenses will put the

¹² Fifth Report on Competition at pp. 11, 30; *see also* Fourth Report on Competition.

¹³ These markets represent the primary cities within major markets where NeoWorld is holding licenses today. Each of the competitors listed in Exhibit 1 hold either site-by-site or geographic area licenses within 25 miles of the core of each market.

¹⁴ 47 U.S.C. § 310(d).

¹⁵ Motorola, Inc., Motorola SMR, Inc. and Motorola Communications and Electronics, Inc., Assignors and FCI, 900, Inc., Assignee, For Consent to Assignment of 900 MHz Specialized Mobile Radio Licenses, DA 01-947, released April 17, 2001 (hereinafter "*Motorola*") at para. 9; *see also* AWI Spectrum Co., LLC, Assignor and ACI 900, Inc., Assignee For Consent to Assignment of Specialized Mobile Radio Licenses, DA 01-1268, rel. May 25, 2001 ("*Arch*") at para. 9; Geotek Communications Inc., *Memorandum Opinion*

spectrum to more efficient use by achieving additional economies of scope and scale by integrating the spectrum into Nextel's nationwide iDEN system,¹⁶ thereby providing Nextel additional capacity to enhance its competitiveness in the CMRS marketplace.¹⁷ As demonstrated herein, the transaction is not "likely to cause competitive harm. . . and is likely to produce some public interest benefits."¹⁸

1. **The CMRS Marketplace Is the Relevant Market for the Bureau's Public Interest Analysis**

In analyzing the pro-competitive impacts of this transaction, the Bureau should rely on its and the Commission's findings that wireless voice services have converged into a single CMRS marketplace within which Nextel competes. Vigorous competition is driving this convergence by forcing every CMRS provider to develop a full range of wireless offerings, including mobile telephone, group calling and data capabilities. Whether a carrier utilizes cellular, Personal Communications Services ("PCS") or SMR spectrum, or any combination thereof,¹⁹ that carrier

and Order, 15 FCC RCD 790 (WTB 2000), *aff'd*, *Order on Reconsideration*, DA 01-51 (WTB, rel. Jan. 9, 2001) ("Geotek") at para. 8.

¹⁶ See Sixth Report on Competition at p. 13 ("The Commission has concluded previously that operators with larger footprints can achieve certain economies of scale and increased efficiencies compare to operators with smaller footprints.")

¹⁷ Alternatively, should the Commission adopt the 800 MHz Land Mobile Radio Band realignment as outlined in the White Paper, the spectrum will be used to facilitate that realignment, thereby facilitating the enhancement and protection of critical Public Safety services.

¹⁸ *Motorola* at para. 38; *see also Arch* at para. 16; *In re Applications of Chadmoore Wireless Group, Inc. and Various Subsidiaries of Nextel Communications, Inc.*, Memorandum Opinion and Order, WT Docket No. 01-193, DA 01-2765, released November 30, 2001 ("Chadmoore").

¹⁹ These categories reflect only the spectrum band on which a carrier may have initiated service originally. Many providers now hold licenses, for example, for both "cellular" and "PCS" spectrum and their customers have dual-band based phones capable of operating on either cellular or PCS frequencies. See Sixth Report on Competition at pp. 12-13, 25-27. As a result of technology and marketplace dynamics, all CMRS carriers are developing integrated suites of mobile communications services that compete with one

must offer not just mobile voice or just trunked dispatch service, but a menu of mobile telephone, group calling and advanced data capabilities in order to remain competitive in the CMRS market because consumers base their purchasing choices on the full array of services and pricing options offered by all CMRS carriers. Therefore, the Commission should not base its competitive analysis on artificial spectrum classifications, but instead should consider the competitive realities of the wireless marketplace.²⁰

a. Congress, the Commission and the Bureau Have Recognized the Existence of a Single CMRS Product Market and the Need to Promote Regulatory Parity Within CMRS.

As early as 1994, the Commission concluded that all CMRS services are competitive or potentially competitive and are, therefore, part of a single product market.²¹ Congress created this CMRS classification of mobile services in 1993 due to the convergence of numerous private and common carrier mobile services, such as cellular, 800 MHz SMR and 900 MHz SMR, that

another for the communications business of people “on the go.” From the customer’s perspective, the fact that Nextel primarily operates using spectrum denominated as “SMR” and Sprint PCS, for example, operates primarily on spectrum denominated as “PCS” is irrelevant in choosing between their competing offerings. Given the irrelevance of the spectrum band to the consumer, the Commission concluded that it would not bifurcate its marketplace analysis in the Sixth Report on Competition among mobile telephony and dispatch services. *Id.* at p. 4.

²⁰ Indeed, the FCC long ago eliminated prohibitions on CMRS providers offering dispatch services. See *Use of Radio Dispatch Communications, Report and Order*, 10 FCC RCD 6280, para. 1 (1995) (“we eliminate our prohibition on the provision of dispatch service by providers of Commercial Mobile Radio Service . . . including cellular licensees . . . After reviewing the record, we find that these restrictions no longer serve the public interest and should be eliminated.”).

²¹ See *Third Report and Order*, 9 FCC RCD 8009, at paras. 37 *et seq.* (1994) (“Third R&O”); see also *Applications of Nextel Communications, Inc. for Transfer of Control of OneComm Corporation*, 10 FCC RCD 3361 (WTB 1995) (“*OneComm*”) at para. 27; *Order on the Assignment of Motorola Licenses*, 10 FCC RCD 7783 (WTB 1995) (“*1995 Motorola Order*”) at para. 17. In these decisions, the Bureau concluded that, based on the Third R&O, “800 MHz SMR [is viewed] as just one of many competitive services within the large CMRS marketplace.” *OneComm* at para. 27; *1995 Motorola Order* at para. 17.

were fulfilling similar consumer needs through similar service offerings.²² As technologies had improved and these services increasingly began to address the same consumer needs, Congress changed the law to ensure that all CMRS carriers, whether cellular, PCS or SMR, would be subject to a common regulatory framework.²³

In 1997, when the Bureau evaluated Nextel's proposed acquisition of Pittencrieff Communications, Inc.,²⁴ nascent mobile competition from SMR providers had not developed sufficiently to provide incentive for cellular and PCS service providers to offer an array of products to compete against SMR providers' menu of mobile voice, paging and dispatch services. Thus, in *Pittencrieff* the Bureau found that, while cellular and PCS "entry into dispatch services is not inherently costly, challenging, or unduly time-consuming," and that the regulatory barriers to non-SMR carriers providing dispatch services had been removed in 1995,²⁵ separate product markets for mobile voice and trunked dispatch services still existed at that time.²⁶ Looking forward to cellular and PCS carriers' future response to SMR competition, however, the Bureau noted that, "[w]hile carriers currently find it more profitable to devote their spectrum to uses other than voice dispatch, substantial growth in mobile communications service capacity,

²² *Omnibus Budget Reconciliation Act of 1993*, Pub. L. No. 103-66, 107 Stat. 312 (1993) ("1993 Budget Act"). See also Sixth Report on Competition at p. 1 ("Congress created the statutory classification of [CMRS] to promote the consistent regulation of mobile radio services that are similar in nature.")

²³ See Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, *Second Report and Order*, 9 FCC RCD 1411, 1418, at para. 13 (1994).

²⁴ Applications of Pittencrieff Communications, Inc., Transferor, and Nextel Communications, Inc., Transferee, for Consent to Transfer Control of Pittencrieff Communications, Inc. and its Subsidiaries, *Memorandum Opinion and Order*, 13 FCC RCD 8935 (WTB 1997) ("*Pittencrieff*").

²⁵ See Report and Order, 10 FCC Rcd 6280 (1995) (eliminating the prohibition of cellular provision of dispatch services).

²⁶ *Pittencrieff*, at paras. 44, 54.

especially in urban centers, is likely to change the relative profitability of these other services and create incentives to allocate more spectrum to the provision of dispatch-type services.”²⁷

Later, in *Geotek*, the Bureau found that “legitimate questions can be raised about the suitability of the market definitions we found appropriate in *Pittencrieff* three years ago [and w]e are now more prepared to broaden our consideration of the competitive impact of market participants outside of the sharply delineated wireless sectors we have used recently when evaluating proposed transfers and assignments.”²⁸ However, because the Bureau found that the transfer of certain of Geotek’s 900 MHz licenses to Nextel would be pro-competitive “regardless of the market definition adopted,” it employed the two-market framework of *Pittencrieff* “for convenience,” while emphasizing that “the boundaries between various CMRS sectors are fluid.”²⁹

In April 2001, the Bureau again “recognize[d] the increasing convergence of CMRS services” and stated that it “may well adopt a broader market definition in reviewing future transactions.”³⁰ The Commission, in its Sixth Report on Competition, noted that barriers were being eliminated among mobile voice services, finding that “while traditional dispatch service

²⁷ *Id.* at para. 54.

²⁸ *Geotek* at para. 27.

²⁹ *Id.* at paras. 27-28 (“These changes result from the Commission’s general policy of allowing flexible use in the CMRS sector, and even more importantly, from the rapid evolution of technology and the wireless marketplace. For example, mobile data services are emerging and are becoming closely integrated with mobile voice and other offerings. Also, services offered by cellular and broadband PCS firms are increasingly competing with services offered by paging and messaging carriers.”)

³⁰ *Motorola* at para. 12; *see also Arch* at para. 11; *Chadmoore* at para. 11 (“... we do not foreclose the possibility that we may adopt an expanded market definition in a future transaction. . .”).

continues to be provided, there has been an increasing convergence of services provided by dispatch and other mobile telephony providers.”³¹

The Commission’s findings in the Sixth Report on Competition and the Bureau’s previous conclusions demonstrate that the dispatch and mobile telephony markets have converged. The Bureau, therefore, should follow its and the Commission’s lead by adopting that converged marketplace for analyzing Nextel’s acquisition of NeoWorld’s 900 MHz SMR licenses.

b. The Marketplace Recognizes that Cellular, PCS and SMR Providers All Compete Directly With One Another in a Single Integrated CMRS Market.

The Commission’s and the Bureau’s conclusions regarding mobile service convergence are supported by events in the wireless marketplace. The Strategis Group stated in its September 2000 report on the state of SMR that “[d]ispatch communications is neither an industry nor a distinct technology. Rather, it is an application that can be provided by several different technologies.”³² Similarly, industry analysts have noted the wireless industry’s convergence toward a single CMRS market as cellular and PCS licensees have launched an array of service packages to compete with digital SMR carriers’ provision of integrated voice/dispatch services, spearheaded by Nextel:

- “The number of direct-connect minutes continues to skyrocket on Nextel’s network, despite competitors’ efforts. Since 1999, carriers such as AT&T Wireless and Sprint PCS have offered mobile-to-mobile calling and group calling features in an attempt to target Nextel’s market.”³³

³¹ Sixth Report on Competition at p. 4 (emphasis added).

³² September 2000 Strategis Report at p. 7.

³³ Lynnette Luna, iDEN Directly Connected to Revenues, Telephony, Sept. 3, 2001 (available at Lexis, News, News Group File).

- “The combination of cellular-like service with the Direct Connect dispatch feature [is] a unique mix in the increasingly competitive wireless industry. . . . ‘What Nextel, and the iDEN technology overall, has done is really opened up the SMR industry to non-traditional two-way radio users,’ said Julie Pigott, vice president of marketing at Southern LINC.”³⁴
- “Each of the Bay Area’s providers – Verizon, Cingular, AT&T, Sprint PCS, Worldcom and Nextel – offered a number of plans, with plenty of ‘freebies’ and promotions. . . . [T]here are 2,000 mobile-to-mobile minutes, which are used when calling another Verizon customer.”³⁵
- “In general, the FCC has tried to wall off little spectrum gardens and plant specific flowers in them. The problem is that the hardy weed that is mobile voice service keeps blowing its seedpods in over the wall and taking over. That’s what Nextel did with the mobile dispatch arena. Even PCS itself was originally supposed to be a separate service from cellular, bristling with everything from one-way voice paging to low-tier service to data – basically 3G without the bandwidth.”³⁶
- “‘You can’t compare the SMR market as an independent market anymore. . . . They are part of the PCS market nowadays. Their services are definitely not marketed toward the dispatch market exclusively anymore.’”³⁷
- SMR integrated voice/dispatch service “awakened the sleeping giant of the cellular industry, which previously had never paid much attention to the dispatch market.”³⁸
- “‘In conversations with cellular carriers, there is a concern that they need to offer service to compete with Nextel. . . . Group calling ‘does represent the notion that Nextel has a differentiated service in an increasingly competitive market. These guys

³⁴ Kristen Beckman, *Beyond Any Expectations . . . ; Nextel Shakes Up Cellular and SMR*, RCR Wireless News, at p. 14, Apr. 9, 2001 (quoting Julie Pigott, Vice President, Southern LINC).

³⁵ Sam Diaz, *Fine Print Complicates Northern California Cellular Phone Rate Plans*, San Jose Mercury News, Apr. 12, 2001 (available at Lexis, Communications, General News and Information).

³⁶ John Sullivan, *FCC’s Halls Are Paved With Good Intentions*, Wireless Insider, at Vol.19, No. 23, June 11, 2001.

³⁷ Dan Meyer, “The Winds of Change: Southern Linc, Nextel Partners Define their Roles in Market”, Radio Comm. Rept., at p.16, Nov. 13, 2000 (quoting Elliot Hamilton, Senior Analyst, Strategis Group).

³⁸ Alan Tilles, “Is there still a place for plain old dispatch?”, Radio Comm. Rept., at p.42, Feb. 28, 2000.

need to do something to lessen the differences in services . . . Group calling is only the first of several steps carriers will take to compete with Nextel.”³⁹

- “Management indicated some of the competition is going after Nextel’s business market focus. For example, VoiceStream and Verizon Wireless are offering free unlimited mobile-to-mobile minutes. While we acknowledge these do not offer the same advantages as Nextel’s direct connect system, we believe this will give the ‘typical Nextel user’ more of a reason to pause when making a decision on which mobile device to purchase. This in turn lengthens the sales cycle significantly and may result in lower net additions and higher churn in the near term [for Nextel].”⁴⁰
- “Many regional operators such as Bell Atlantic Mobile have been offering free or reduced rates for mobile-to-mobile calls in an effort to fight off intense competition for business users from Nextel, which is targeting work groups with its integrated cellular and dispatch service.”⁴¹
- “Noel Salmi, director of corporate communications with AT&T Wireless, said the company’s group calling plan targets much of the same market segments Nextel is going after, but the advantage is that customers can call five landline numbers for free.”⁴²
- “Some cellular operators are offering creative billing plans, including discount prices for mobile-to-mobile minutes, and bundled service packages that include large amounts of airtime . . . Other carriers believe they can create *de facto* dispatch systems by combining speed dialing and conferencing features over intelligent networks.”⁴³ These “dispatch calling plans will grow rapidly in the next five years.”⁴⁴

As the Bureau has recognized, Nextel started this revolution with its “bundled offering of mobile voice and the Direct Connect service option [that] straddle[s] the two *Pittencrieff*

³⁹ Lynnette Luna, Group Calling is Weapon in Wireless Wars, Radio Comm. Rept., at p. 20, June 28, 1999 (quoting Steven Virostek, Vice President, Strategis Group in Washington D.C.) (“Wireless Wars”).

⁴⁰ See First Union Securities Covers NXTL, First Union Securities, Nov. 11, 2000 <http://www.cnetinvestor.com/yahoonews/newsitem-yahoo.asp?SYMBOL=R657350>).

⁴¹ Wireless Wars at p.20.

⁴² *Id.*

⁴³ US Dispatch Markets, The Strategis Group, January 2000, at p.75 (“January 2000 Strategis Report”).

⁴⁴ *Id.* at p.82.

markets,”⁴⁵ and its CMRS competitors have been forced to develop a menu of services to satisfy the range of wireless consumers’ needs. Industry analysts – and more importantly CMRS carriers themselves – recognize that, to be competitive, a carrier must offer not just mobile voice or just trunked dispatch service, but a package of voice, group calling and data capabilities, and soon Third Generation (3G) wireless functionalities.

Moreover, as the Commission just recognized, cellular and PCS carriers, “in an apparent response to the dispatch functionality of SMR services,” are following Nextel’s lead by “offering dispatch-like options (e.g., group calling and conferencing) as part of their service offerings, particularly for businesses.”⁴⁶ The attached Exhibit 3 lists some of the innovative calling plans developed by cellular and PCS competitors to respond to Nextel’s and other CMRS providers’ integrated service packages in the CMRS marketplace, including using mobile telephone service as a direct substitute for two-way radios (*i.e.*, trunked dispatch services). Specifically, Exhibit 3 includes a promotion of AT&T Wireless’ mobile-to-mobile Group Calling Plan, stating that “[w]ith the quality, performance, security, and coverage of AT&T Group Calling, *there’s no longer a need to connect your workgroup with two-way radios or pagers.*”⁴⁷

In short, the Commission’s review, industry analysts’ studies, carriers’ business plans, and consumer response all confirm, as Congress intended in the 1993 Budget Act, the death of artificial boundaries between mobile voice and trunked dispatch services and the birth of a single integrated CMRS market in which cellular, PCS and digital SMR providers all must compete for

⁴⁵ *Geotek* at para. 27.

⁴⁶ Sixth Report on Competition at p. 11; *see also* Exhibit 3.

⁴⁷ Exhibit 3, *emphasis added*.